

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FIREMAN'S FUND INSURANCE
COMPANY, 580 & 530 SWEDESFORD
ASSOCIATES, LP, and KEYSTONE
PROPERTY GROUP, GP, LLC,

Plaintiffs,

vs.

ZURICH AMERICAN INSURANCE
COMPANY,

Defendant.

CIVIL ACTION NO. _____

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NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES OF THE
UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA:

PLEASE TAKE NOTICE that defendant, Zurich American Insurance Company, by its undersigned attorneys, files this Notice of Removal pursuant to 28 U.S.C. §§1332 and 1441, removing the above-captioned case filed by plaintiffs from the Court of Common Pleas of Philadelphia County, Pennsylvania to the United States District Court for the Eastern District of Pennsylvania. The grounds for removal are as follows:

HISTORY OF CASE

1. On or about July 27, 2010, plaintiffs, Fireman's Fund Insurance Company, 580 & 530 Swedesford Associates, LP, and Keystone Property Group, GP, LLC, commenced the instant action by Complaint in the Court of Common Pleas of Philadelphia County, Pennsylvania, Commerce Program, July Term 2010, No. 002881, against Zurich American Insurance Company seeking

declaratory relief and damages for breach of contract and breach of the duty of good faith. A true and correct copy of the Complaint is attached hereto as Exhibit "A".

CITIZENSHIP OF PARTIES

2. Plaintiff, Fireman's Fund Insurance Company, alleges that it is a corporation organized under the laws of the State of California, with a principal place of business at 777 San Marin Drive, Novato, California. *See* Exhibit "A."

3. Plaintiff, 580 & 530 Swedesford Associates, LP, alleges that it is a limited partnership with a principal place of business at 1 Presidential Boulevard, Suite 300, Bala Cynwyd, PA. *See* Exhibit "A."

4. Plaintiff, Keystone Property Group, GP, LLC, alleges that it is a limited liability company with a principal place of business at 1 Presidential Boulevard, Suite 300, Bala Cynwyd, PA. *See* Exhibit "A."

5. For diversity jurisdiction purposes, pursuant to 28 U.S.C. §1332, plaintiffs were, and are, citizens of the State of California and the Commonwealth of Pennsylvania, at all times material hereto. *See* Exhibit "A."

6. Defendant, Zurich American Insurance Company, is a corporation duly organized, existing and incorporated under the laws of the State of New York with its principal place of business at 1400 American Lane in Schaumburg, Illinois.

7. For diversity jurisdiction purposes, pursuant to 28 U.S.C. §1332, defendant is a corporate citizen of the States of New York and Illinois.

THIS REMOVAL NOTICE IS TIMELY

8. Counsel for plaintiffs forwarded a copy of the Complaint in this matter to Zurich, by certified mail, return receipt requested on or about July 28, 2010, and the same was received on or about August 3, 2010.

9. Pursuant to 28 U.S.C. §1446(b), “[the] notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading.”

10. Thirty (30) days from the first purported service upon defendants is September 2, 2010. As this Notice is being filed on or before that date, defendant’s Notice of Removal is timely pursuant to 28 U.S.C. §1446(b).

AMOUNT IN CONTROVERSY

11. This action arises out of a claim for declaratory relief, breach of contract and breach of the duty of good faith sought with respect to insurance coverage for 580 & 530 Swedesford Associates, LP (“Swedesford”), and Keystone Property Group, GP, LLC (“Keystone”) relative to an underlying action styled, *Gaetano Dadario v. 580 & 530 Swedesford Associates, LP, et al.*, Court of Common Pleas of Chester County, Pennsylvania, Docket No. 08-00924 (“*Dadario* Litigation”).

12. In Count I of the Complaint, plaintiffs seek insurance coverage, defense and indemnification in the *Dadario* Litigation for Swedesford and Keystone. See Exhibit “A,” Count I.

13. In Count II of the Complaint, styled as breach of contract, plaintiffs seek an award in excess of \$50,000 representing the costs of defending the *Dadario* Litigation, as well as any

amount that plaintiffs may be obligated to pay as damages in the *Dadario* Litigation. *See* Exhibit “A,” Count II.

14. In Count III of the Complaint, styled as breach of the duty of good faith, plaintiffs seek an award in excess of \$50,000, allegedly representing the costs of defending the *Dadario* Litigation, as well as any amount that plaintiffs may be obligated to pay as damages in the *Dadario* Litigation. *See* Exhibit “A,” Count III.

15. It is believed, and therefore averred, that from a reasonable reading of the plaintiffs’ Complaint, that they allege monetary damages in excess of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

REMOVAL PREREQUISITES HAVE BEEN MET

16. This action is one over which this Court has original jurisdiction under 28 U.S.C. §1332(a) and is one that may be removed to this Court by the defendant pursuant to 28 U.S.C. §§1441(a) and (b), in that it is a suit constituting a dispute between citizens of different states and the matter in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs.

17. The Notice of Removal has been timely made pursuant to 28 U.S.C. §1446(b).

18. Defendant has sought no similar relief with respect to this matter.

19. Concurrent with the filing of this Notice, defendant is serving this Notice upon plaintiffs’ counsel, and will promptly file a copy of the Notice with the Prothonotary of the Court of Common Pleas of Philadelphia County.

WHEREFORE, Notice is given that this action is removed from of the Court of Common Pleas of Philadelphia County to the United States District Court for the Eastern District of Pennsylvania.

Dated: August 24, 2010

By: 

Louis A. Bové, Esquire

Marc J. Syken, Esquire

PA 53071/PA 62533

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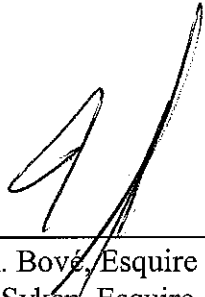
Zurich American Insurance Company

CERTIFICATE OF SERVICE

The undersigned certifies that the Notice of Removal of defendant, Zurich American Insurance Company, has been electronically filed on this date and is available for viewing on the Court's ECF System. A true and correct copy of the Notice of Removal has also been served *via* electronic mail, on this date, to:

Warren F. Sperling, Esquire
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Philadelphia, PA 19103-2393
sperling@bbs-law.com

Dated: August 24, 2010

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